

REMARKS

This Amendment is submitted in response to the Office Action mailed on July 20, 2010. Claims 1, 5, 11, 12, 20, 22, 24, 27 and 32-36 have been amended, and claims 1-36 remain pending in the present application. Applicant's counsel appreciates the courtesy extended by Examiner Alexander during the telephone interview conducted on October 14, 2010. In accordance with the agreement reached during that interview, as reflected in the Interview Summary mailed on October 21, 2010, Applicant has amended each of independent claims 1, 11, 20, 24, 27 and 32-36 to place these claims, and claims 2-10, 12-19, 21-23, 25, 26 and 28-31 depending therefrom, in condition for allowance. Applicant notes and appreciates Examiner's indication of allowability of claim 18. In view of the foregoing amendments, as well as the following remarks, Applicant respectfully submits that this application is in complete condition for allowance and requests reconsideration of the application in this regard.

Claims 1-3, 6, 7 and 19-33 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Day et al., U.S. Patent No. 3,697,289 ("*Day et al.*") in view of Rogers et al., U.S. Patent No. 5,154,161 ("*Rogers et al.*"). Claims 4, 5, 8-17 and 34-36 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over *Day et al.* in view of *Rogers et al.* and further in view of Hansen, U.S. Patent No. 5,690,018 ("*Hansen*"). While Applicant respectfully traverses these rejections, Applicant has amended each of independent claims 1, 11, 20, 24, 27 and 32-36 substantially as discussed during the telephone interview to even more sharply define

the claimed invention over the prior art of record and respectfully requests that the rejections be withdrawn.

In particular, as the Examiner will note, Applicant has amended each of independent claims 1, 11, 20, 24, 27 and 32-36 to recite that the popcorn popper comprises a cabinet including a popcorn receiving chamber having a top wall. Support for this amendment is located at Page 3, lines 13-16, Page 6, lines 1-2 and Page 8, lines 1-3 of Applicant's disclosure, for example, and this feature is shown according to one embodiment in Figs. 1, 2 and 6 according to one embodiment. The top wall of the popcorn receiving chamber is shown in Figs. 1 and 2, for example.

Each of independent claims 1, 11, 20, 24, 27 and 32-36 has also been amended to recite that the popcorn popping kettle assembly, including the kettle and the kettle top, is located entirely within the popcorn receiving chamber and spaced from the top wall thereof as shown in Figs. 1 and 2.

As also discussed during the telephone interview, the Examiner will note that each of independent claims 1, 11, 20 and 24 has been amended to recite a filter passage having an inlet within the popcorn receiving chamber of the cabinet proximate the kettle (claim 1), a filter passage having an inlet in an upper portion of the popcorn receiving chamber (claims 11 and 24) or an effluent passage having an inlet disposed in an upper portion of the popcorn receiving chamber (claim 24). Independent claim 35, as amended, recites a filtration passage with an inlet proximate an upper portion of the popcorn receiving chamber. Lastly, independent claims 27, 32-34 and 36 have

been amended to recite a filtration passage in closed fluid communication with the popcorn receiving chamber. As discussed with the Examiner, the filtration passage is in closed fluid communication with the popcorn receiving chamber due to the inlet of the filtration passage being located wholly within the popcorn receiving chamber and/or the filter passage being directly connected to a wall of the popcorn receiving chamber as shown in Fig. 2. Support for these amendments is provided at Page 8, lines 4-10, Page 11, lines 11-16, Page 12, lines 6 through Page 13, line 6, and Page 14, line 10 through Page 15, line 5 of Applicant's disclosure, for example, and these features are shown according to one embodiment in Figs. 1, 2 and 6.

During the telephone interview, it was agreed that in the popcorn popper of *Day et al.*, the popping pot (18) is mounted within the popcorn receiving chamber (16) with the top of the pot housing (318) mounted in engagement with the top wall or support plate (102) of the popcorn receiving chamber (16). *See, for example*, Col. 12, lines 24-46 and Col. 11, lines 41-65 and Figs. 4 and 10 of *Day et al.*

It was also discussed during the telephone interview that the popcorn popper of *Day et al.* includes a condenser outlet (306) in fluid communication with the popping pot through a series of openings provided in the top of the pot housing and the top wall or support plate of the popcorn receiving chamber. *See* Col. 11, lines 54-65.

Therefore, it was agreed during the telephone interview that in the popcorn popper of *Day et al.*, the top of the pot housing is not spaced from the top wall of the popcorn receiving chamber as now recited in each of amended independent

claim 1, 11, 20, 24, 27 and 32-36. Moreover, it was agreed that one of ordinary skill in the art would not be motivated to space the top of the pot housing from the top wall of the popcorn receiving chamber since this would destroy the intended purpose and function of the condenser outlet to fluidly communicate with the pot through openings provided in the top of the pot housing and the support plate for discharging steam and waste oil directly from the pot for delivery to the condensing system.

Applicant discussed with the Examiner that the secondary *Rogers et al.* reference teaches a filter assembly that is positioned "over" the cooking apparatus. Thus, one of ordinary skill in the art, based upon the teaching of *Rogers et al.*, would be motivated, at best, to place the filter assembly of *Rogers et al.* over a popcorn popping machine -- much like a conventional hood. Therefore, there is no teaching in *Rogers et al.*, taken alone or in any combination with the other prior art of record, providing a filter passage having an inlet within a popcorn popping cabinet or a filter passage in closed fluid communication with a popcorn receiving chamber as now claimed.

In view of the above, it was agreed that the rejections of the pending claims would be withdrawn in view of the amendments now made herein as reflected in the Interview Summary mailed on October 21, 2010.

Moreover, as claims 2-10, 12-19, 20-23, 25, 26 and 28-31 depend from allowable independent claims 1, 11, 20, 24 and 27, and further as each of these claims

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recites a combination of elements or steps not fairly taught or suggested by the prior art of record, Applicant submits that these claims are allowable as well.

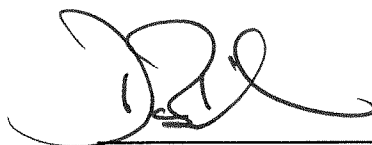
CONCLUSION

In view of the foregoing response including the amendments and remarks, this application is submitted to be in complete condition for allowance and early notice to this affect is earnestly solicited. If there is any issue that remains which may be resolved by telephone conference, Examiner is invited to contact the undersigned in order to resolve the same and expedite the allowance of this application.

Please see the electronic fee calculation sheet for the charge in the amount of \$65 for the one month extension fee as required by 37 C.F.R. §1.17(a)(1). If any other fees are necessary, the Commissioner is hereby authorized to charge any underpayment or fees associated with this communication or credit any overpayment to Deposit Account No. 23-3000.

Respectfully submitted,

WOOD, HERRON & EVANS, L.L.P.

A handwritten signature in black ink, appearing to read 'D. Brinkman', written over a horizontal line.

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